

DECISION NOTICE
CANYON CREEK WILDLIFE MANAGEMENT AREA
- SPECIMEN CREEK ADDITION -
ENVIRONMENTAL ASSESSMENT

Montana Fish, Wildlife & Parks
Region Three, Bozeman
September 2016

Proposed Action

Montana Fish, Wildlife and Parks (FWP) proposes to acquire through donation approximately 729 acres in fee located in the Robert E. Lee Mountain Range both east and west of Hwy 279 northwest of Canyon Creek, Montana. The property includes portions of the Specimen and Weino drainages as well as the confluence of Specimen Creek and Canyon Creek. The property would be an addition to the existing ~2,361-acre Canyon Creek Wildlife Management Area (WMA) northwest of Helena.

The Canyon Creek WMA provides yearlong habitat for elk, upland game birds, small mammals, and birds and seasonal habitat for deer, moose, bear, forest carnivores, raptors, and endemic and neo-tropical migrant birds. Little Mill Creek, Big Mill Creek, and Sawmill Gulch flow through the eastern portion of the WMA and contain brook trout. These streams have been considered for westslope cutthroat trout restoration. Canyon Creek and Tar Head Creek flow through the western portion of the WMA and contain rainbow, brook, and native westslope cutthroat trout. Public recreation opportunities include hunting, wildlife viewing, hiking, horseback riding, and picnicking. Public access to adjacent public land (USFS, United States Bureau of Land Management [BLM], and Department of Natural Resources and Conservation [DNRC]) is also provided with this WMA.

The benefits of the additional property not only include increasing the amount of existing, contiguous protected wildlife habitat and further protection of a stream corridor containing native westslope cutthroat trout, but also include maintaining public access to public land in a strategic location along Hwy 279.

The following are details of the resource values FWP intends to conserve:

- Acquisition of this property would secure additional habitat and movement connectivity for wildlife across Hwy 279 between parcels of land owned by the USFS. Species of Concern (SOC) verified to occur in this vicinity include wolverine (*Gulo gulo*), Canada lynx (*Lynx Canadensis*), grizzly bear (*Ursus arctos*), pileated woodpecker (*Dryocopus pileatus*), golden eagle (*Aquila chrysaetos*), and westslope cutthroat trout (*Oncorhynchus clarki lewisi*). Unverified SOC for this area includes fisher (*Martes pennant*). No plant SOC were listed in the Natural Heritage Program database for this vicinity. This property

is within an identified high-priority wildlife linkage area along the Continental Divide. In that scope, this property is part of a larger landscape effort.

- The proposed acquisition would not only further protect the stream corridor from invasion by non-native fish species, but may also expedite FWP's efforts to enhance and extend the current distribution of westslope cutthroat. Although not currently listed as a "Conservation Population," implementation of habitat improvement projects may be simplified if the lower portion of the stream was located on public land. Habitat improvements, such as barriers to prevent immigration of non-native rainbow and brook trout, stream bed restoration, or improvements to the riparian corridor, may allow additional treatment to improve the Specimen Creek and Weino Creek cutthroat populations and elevate the species' conservation status.
- Acquisition of this property would secure more direct public access to adjacent public lands in a strategic location for fishing, hunting, and other non-motorized recreation. The proposed acquisition would also maintain another point of public access to the northeast corner of the existing WMA. Angler access would increase, and there would be additional fishing opportunity for brook trout and rainbow trout, both of which occur in Canyon Creek. At present, there are two points of public access to public land near the west side of Hwy 279 below Flesher Pass: one at the existing WMA and one at the larger parcel described in this proposal. Otherwise, public access to the Tar Head, Trout, Specimen, and Weino Creek drainages on the Helena National Forest is from above through the Stemple and Flesher Pass areas. This property would provide more direct public access to the Specimen and Weino Creek drainages from below. Finally, elk are harvested within the WMA and within the Specimen and Weino Creek drainages, and maintaining public access to this property would continue to disperse hunters across a broader area. Acquisition may also enhance FWP's ability to achieve population management objectives of wildlife (such as elk). This property would also allow hiking and wildlife viewing, and it is near the Continental Divide, which is a national scenic trail.

If the acquisition is completed, the additional 729 acres of the Canyon Creek WMA would be managed under the guidance of the *2002 Canyon Creek Wildlife Management Area Management Plan*.

Alternative Considered to the Proposed Action

No Action: FWP would not acquire the addition to Canyon Creek WMA

Under the No Action Alternative, FWP would not accept a donation of the property from the Rocky Mountain Elk Foundation. Eventually, the property would likely be sold to a private entity, and the opportunity for public access in this strategic location would be unlikely to be obtained by FWP through another property in the area.

Montana Environmental Policy Act

Montana Fish, Wildlife & Parks is required by the Montana Environmental Policy Act (MEPA) to assess potential impacts of its proposed actions to the human and physical environments,

evaluate those impacts through an interdisciplinary approach, including public input, and make a decision whether or not to proceed with the project.

In compliance with MEPA, a draft Environmental Assessment (EA) was completed on the proposed action by FWP and released for public comment in August 2016. The public comment period was for 30 days with a deadline of 5:00 pm September 9, 2016.

Additionally, a public hearing was hosted by FWP at the FWP Headquarters building in Helena on the evening of September 1. The meeting provided an opportunity for FWP to address questions about the proposed project and its alternative and to receive public comments.

Legal notices announcing the availability of the EA were published in the *Bozeman Chronicle* and *Helena Independent Record*. In addition to the announcement, the EA was posted on FWP's webpage: <http://fwp.mt.gov> under *Public Notices*. The EA was mailed to over 70 interested groups and individuals and adjacent landowners, in addition to internal FWP distribution. Additional opportunity for public participation was possible last fall (2015), when the Montana Fish and Wildlife Conservation Trust issued a request for public comment, and public participation was also afforded in early summer 2016 as part of the application process for funding through the Lewis and Clark County Open Lands Program (30-day comment period followed by a public hearing).

Summary of Public Comments

Four people signed in at the public hearing in Helena. No one testified. All four individuals were neighboring landowners and were in support of the proposal and offered specific suggestions for FWP to consider. As no one testified, FWP did not make a digital recording of the hearing. Eight comments were received from individuals or parties via email and regular mail during the public comment period on the proposed action. A total of seven individuals and organizations indicated support for FWP to accept the donation of the property for addition to the Canyon Creek WMA. No one registered opposition to FWP acquiring the property, and one individual commented without giving a clear opinion for or against the property coming to FWP.

Public participation is a mechanism for agencies to consider substantive comments on a proposal. The following is a synopsis of the feedback received, and FWP's response to those comments and questions.

1. Comments supportive of the project
 - a. Ideal use of the property as a WMA; great addition to the WMA
 - b. Stewardship by FWP
 - c. Public ownership to protect and improve wildlife and wildlife habitat; not acquiring the land and having FWP administer it could place wildlife and wildlife habitat in jeopardy
 - d. Increase the amount of existing, contiguous protected wildlife habitat
 - e. Protection of a stream corridor/habitat for native westslope cutthroat trout
 - f. Positive benefit for other Species of Concern, game, and nongame species
 - g. Property is within a high priority linkage area

FWP Response: Under FWP ownership, minimal development of public facilities such as a parking area is planned in order to maintain the undeveloped, primitive nature of the area. The overall objectives for this project include maintaining or improving the wildlife and fisheries values of the property.

2. a. Manage for native habitat, manage wetland and riparian land in a manner that allows recreationists access but protects habitat for both fish and wildlife
b. Protect the riparian areas

FWP Response: The overall objectives for this project include maintaining or improving the wildlife and fisheries values of the property.

Public motorized access would be limited to the parking and entrance to the parking area. There would be minimal administrative motorized access, to treat weeds for example. FWP does not plan to maintain any routes on these parcels except for the section from Hwy 287 across the bridge over Canyon Creek on the west side of the highway. The route would remain a primitive route.

No developments would be made within the property. Debris removal, parking area installation, parking area fencing, and barrier erection would be anticipated after acquisition to provide resource protection and for public safety. Fencing, gates, and barriers at highway access points to the property would be maintained. Fencing along other sections of the perimeter of the property will be maintained or installed when determined to be both necessary for resource protection and cost effective.

Additionally, groups of 10 or more and commercial use would require a permit from FWP.

3. Support acquiring mineral rights

FWP Response: As stated on page 5 of the draft EA, unless the Reserved Restrictive Easement (RRE) is extinguished before FWP acquires the property, FWP will negotiate with the holder of the RRE and mineral rights to extinguish the RRE and acquire the mineral rights, thus unifying title.

4. Do not allow cattle grazing on the property

FWP Response: FWP does not intend to allow livestock grazing on the property and would prefer to fence cattle out, and therefore the feasibility of drift fencing (partial fencing to control livestock) would be explored.

5. Treat weeds on the property

FWP Response: FWP would document compliance with 7-22-2154, MCA, on weed inspections for land acquisitions. FWP would implement noxious weed management with guidance from the FWP Statewide Integrated Noxious Weed Management Plan (June

2008) and would utilize properly prescribed chemicals on a prioritized basis. Biological agents, mowing, pulling, and/or other methods would be researched and utilized where chemical control is inappropriate. Limitations on motorized use of the property would be implemented to minimize the introduction and spread of noxious weeds. Weed-seed free feeds for pack animals would be required.

6. Comments related to trespass on neighboring property
 - a. Install fencing and signs on the southern boundary to distinguish boundary between public and private land
 - b. Sign other boundaries

FWP Response: FWP expects that hunters utilizing the WMA will do some “self-policing,” based on reports made by hunters to the FWP area wardens and wildlife biologist in the past. If FWP acquires the property, to minimize the possibility of trespass to neighboring private property we 1) plan to sign the boundary between the WMA addition and private property, following FWP boundary signing standards and 2) plan to install a sign at the parking area depicting the WMA boundary and surrounding private property and public property.

As a new acquisition, FWP area game wardens would plan to elevate patrol of this area initially, as allowable with other regional responsibilities.

Landowner permission is required for all hunting on private property in Montana (87-3-304MCA). Therefore, anyone hunting on property without permission can be cited for that violation, if the landowner chooses to pursue such. Posting of property is NOT required regarding Hunting Without Landowner Permission during established hunting seasons in order to pursue violations. Persons trespassing on private property outside of the hunting season can be charged with Criminal Trespass (45-6-203MCA). In order to prosecute for Criminal Trespass, the property is required to be posted.

7. Comments related to the parking area
 - a. Install parking area east of Specimen Creek [and west of the highway] to keep motorized vehicles from accessing the mouth of Specimen Creek and its surrounding area
 - b. Lack of visibility of the parking area from the highway could increase adverse impacts to Williams’ property
 - c. Consult with Williams on parking area development if placed west of Specimen Creek in an effort to prevent trespass of motorized vehicles beyond the parking area or onto Williams’ property

FWP Response: FWP Design and Construction staff visited the property to assess placement of a suitable public approach and parking area. It was determined that the safest approach for public use of the project property would likely be on the west side of the highway. It was determined that a public approach on the east side of the highway would be unlikely to be approved by the Montana Department of Transportation due to line-of-sight constraints and subsequent safety concerns. FWP

Design and Construction staff are in communication with Montana Department of Transportation about the approach to the property as well as establishing a parking area.

Wherever the parking area is located, parking area fencing and barrier erection would be anticipated after acquisition to provide resource protection and for public safety.

8. FWP ownership will lead to increased public use, use which will continue to increase in the future

FWP Response: The property would be open to public access, hunting, fishing, and other non-motorized recreation consistent with a wildlife management area. Public use of the property and nearby public lands (USFS and FWP) may increase slightly, due to greater visibility of the property as publicly accessible (the parcel would eventually be signed as the Canyon Creek WMA; Stimson Lumber Company has traditionally allowed public access to the property, but that is not necessarily widely known).

9. After acquisition, review and maintain roads within the WMA, including limited fuel modification work along roadsides, for emergency fire access; address this concern in any future WMA management plan

FWP Response: FWP does not plan to maintain any routes on these Specimen Creek parcels, except for the section from Hwy 287 across the bridge over Canyon Creek on the west side of the highway. The route would remain a primitive route. Management of the existing WMA is beyond the scope of this project; however, the existing road prism on both the Specimen Creek property and the existing WMA would provide a ready means for emergency access should the need arise to respond to fire. Upon completion of the acquisition, FWP intends to review the property with the Department's forester and develop a forest plan, which would include further description of roads, forest habitat objectives, and fire concerns.

10. Supportive of public ownership, use, and access

FWP Response: The overall objectives for this project include providing recreational opportunity on the property and providing strategic public access through this property to adjoining public lands.

11. Supportive of the land not being subdivided or developed long term

FWP Response: Under FWP ownership, minimal development of public facilities such as a parking area is planned in order to maintain the undeveloped, primitive nature of the area. The overall objectives for this project include maintaining or improving the wildlife and fisheries values of the property.

Final Environmental Assessment for the Canyon Creek Wildlife Management Area Addition

FWP concludes that the impacts associated with the proposed alternatives would not have a significant impact on the physical environment or human population in the area. In determining the significance of each impact, the criteria defined in the State of Montana's Administrative Rule 21.2.431 was used.

This environmental assessment is therefore the appropriate level of analysis for the proposed action and an environmental impact statement is not required.

Based on the comments received and consideration of their value to improve and clarify the assessment for this project, FWP has made some modifications to the Draft Environmental Assessment narrative as presented in this Decision Notice. This Decision Notice and attached draft Canyon Creek Wildlife Management Area Addition Environmental Assessment will be considered the Final EA. Both will be posted on FWP's website.

Decision

Based upon the Environmental Assessment and public comment, it is my decision to approve the acquisition of the Canyon Creek Wildlife Management Area Addition pending review by the FWP Commission and the Board of State Land Commissioners.

A handwritten signature in black ink, appearing to read 'S. Sheppard', is positioned above a horizontal line.

Sam B. Sheppard, Region 3 Supervisor
Montana Fish, Wildlife & Parks